

adversely affected by the decision, and we notify the person to appear at the hearing or to present evidence supporting his or her interest.

■ 8. In § 416.1436, revise the first and second sentences of paragraph (a), paragraphs (c) and (d), and the introductory text of paragraph (e), and add paragraphs (g) and (h), to read as follows:

**§ 416.1436 Time and place for a hearing before an administrative law judge.**

(a) *General.* We may set the time and place for any hearing. We may change the time and place, if it is necessary.

\* \* \*

(c) *Determining how appearances will be made.* In setting the time and place of the hearing, we will consult with the administrative law judge in order to determine the status of case preparation and to determine whether your appearance or that of any other party who is to appear at the hearing will be made in person or by video teleconferencing. The administrative law judge will determine that the appearance of a person be conducted by video teleconferencing if video teleconferencing technology is available to conduct the appearance, use of video teleconferencing to conduct the appearance would be more efficient than conducting the appearance in person, and the administrative law judge determines that there is no circumstance in the particular case that prevents the use of video teleconferencing to conduct the appearance. Section 416.1450 sets forth procedures under which parties to the hearing and witnesses appear and present evidence at hearings.

(d) *Objecting to the time or place of the hearing.* If you object to the time or place of your hearing, you must notify us at the earliest possible opportunity before the time set for the hearing. You must state the reason for your objection and state the time and place you want the hearing to be held. If at all possible, the request should be in writing. We will change the time or place of the hearing if the administrative law judge finds you have good cause, as determined under paragraphs (e) and (f) of this section. Section 416.1438 provides procedures we will follow when you do not respond to a notice of hearing.

(e) *Good cause for changing the time or place.* If you have been scheduled to appear for your hearing by video teleconferencing and you notify us as provided in paragraph (d) of this section that you object to appearing in that way, the administrative law judge will find

your wish not to appear by video teleconferencing to be a good reason for changing the time or place of your scheduled hearing and we will reschedule your hearing for a time and place at which you may make your appearance before the administrative law judge in person. The administrative law judge will also find good cause for changing the time or place of your scheduled hearing, and we will reschedule your hearing, if your reason is one of the following circumstances and is supported by the evidence:

\* \* \* \* \*

(g) *Consultation procedures.* Before we exercise the authority to set the time and place for an administrative law judge's hearings, we will consult with the appropriate hearing office chief administrative law judge to determine if there are any reasons why we should not set the time and place of the administrative law judge's hearings. If the hearing office chief administrative law judge does not state a reason that we believe justifies the limited number of hearings scheduled by the administrative law judge, we will then consult with the administrative law judge before deciding whether to begin to exercise our authority to set the time and place for the administrative law judge's hearings. If the hearing office chief administrative law judge states a reason that we believe justifies the limited number of hearings scheduled by the administrative law judge, we will not exercise our authority to set the time and place for the administrative law judge's hearings. We will work with the hearing office chief administrative law judge to identify those circumstances where we can assist the administrative law judge and address any impediment that may affect the scheduling of hearings.

(h) *Pilot program.* The provisions of the first and second sentences of paragraph (a), the first sentence of paragraph (c), and paragraph (g) of this section are a pilot program. These provisions will no longer be effective on August 9, 2013, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

■ 9. In § 416.1438, revise the first sentence of paragraph (a) to read as follows:

**§ 416.1438 Notice of a hearing before an administrative law judge.**

(a) *Issuing the notice.* After we set the time and place of the hearing, we will mail notice of the hearing to you at your last known address, or give the notice to you by personal service, unless you

have indicated in writing that you do not wish to receive this notice. \* \* \*

\* \* \* \* \*

■ 10. In § 416.1450, revise the third sentence of paragraph (b) to read as follows:

**§ 416.1450 Presenting evidence at a hearing before an administrative law judge.**

\* \* \* \* \*

(b) \* \* \* Even if all of the parties waive their right to appear at a hearing, we may notify them of a time and a place for an oral hearing, if the administrative law judge believes that a personal appearance and testimony by you or any other party is necessary to decide the case.

\* \* \* \* \*

[FR Doc. 2010-16549 Filed 7-7-10; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2010-0295]

RIN 1625-AA08

#### Special Local Regulation for Marine Events; Mattaponi River, Wakema, VA

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard will establish special local regulations during the Mattaponi Madness Drag Boat Event, a series of power boat races to be held on the waters of the Mattaponi River, near Wakema, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic during the power boat races on the Mattaponi River immediately adjacent to the Rainbow Acres Campground, located in King and Queen County, near Wakema, Virginia. **DATES:** This rule is effective from 9 a.m. on August 28, 2010 until 7 p.m. on August 29, 2010.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2010-0295 and are available online by going to <http://www.regulations.gov>, inserting USCG-2010-0295 in the "Keyword" box, and then clicking "Search." This material is also available for inspection or copying at the Docket Management Facility (M-

30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call or email LT Tiffany Duffy, Chief Waterways Management Division, Sector Hampton Roads, Coast Guard; telephone (757)668-5580, e-mail [Tiffany.A.Duffy@uscg.mil](mailto:Tiffany.A.Duffy@uscg.mil). If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Regulatory Information**

On May 11, 2010, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation for Marine Events; Mattaponi River, Wakema, VA in the **Federal Register** (75 FR 90). We received no comments on the proposed rule. No public meeting was requested, and none was held.

**Basis and Purpose**

The Mattaponi Volunteer Rescue Squad will be sponsoring a series of power boat racing events titled the "Mattaponi Madness Drag Boat Event." This section will be effective on the following dates: August 28, 2010 through August 29, 2010. The Coast Guard anticipates that this section will only be enforced between 9 a.m. to 7 p.m. on August 28, 2010. If the event is postponed due to inclement weather, then this section will be enforced on August 29, 2010 between 9 a.m. and 7 p.m. The races will be held on the Mattaponi River immediately adjacent to the Rainbow Acres Campground, King and Queen County, Virginia. The power boat races will consist of approximately 45 vessels conducting high speed straight line runs along the river and parallel to the shoreline. A fleet of spectator vessels is expected to gather near the event site to view the competition. Due to the high speed of 45 vessels, the regulation is necessary to provide for the safety of participants, spectators and other transiting vessels by temporarily restricting vessel traffic in the event area during the power boat races.

**Discussion of Comments and Changes**

The Coast Guard received no comments in response to the NPRM. No public meeting was requested and none was held.

**Regulatory Analyses**

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

**Regulatory Planning and Review**

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this regulation will prevent traffic from transiting a portion of the Mattaponi River during the events, the effect of this regulation will not be significant due to the limited duration that the regulation will be in effect and the advance notification that will be made to the maritime community via marine information broadcast so mariners can adjust their plans accordingly. Additionally, the regulated area has been designed to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats and when the Coast Guard Patrol Commander deems it is safe to do so.

**Small Entities**

Under the Regulatory Flexibility Act (5 U.S.C. 601-612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities: owners or operators of vessels intending to transit this section of the Mattaponi River from 9 a.m. to 7 p.m. on August 28, 2010 or on August 29, 2010. This rule would not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Although the regulated area will apply to a three-quarter mile segment of the Mattaponi River, traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander between races; (ii) in the

case where the Patrol Commander authorizes passage through the regulated area during the event, vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course; (iii) before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

**Collection of Information**

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

**Federalism**

A rule has implications for federalism under Executive Order 13132. Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

**Unfunded Mandates Reform Act**

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure,

we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these

standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

#### PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233

■ 2. Add temporary § 100.35T05-0295 to read as follows:

#### § 100.35T05-0295 Mattaponi River, Wakema, Virginia.

(a) *Regulated Area.* The regulated area includes all waters of Mattaponi River

immediately adjacent to Rainbow Acres Campground, King and Queen County, Virginia. The regulated area includes a section of the Mattaponi River approximately three-quarter mile long and bounded in width by each shoreline, bounded to the east by a line that runs parallel along longitude 076°52'43" W, near the mouth of Mitchell Hill Creek, and bounded to the west by a line that runs parallel along longitude 076°53'41" W just north of Wakema, Virginia. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant or petty officer on board and displaying a Coast Guard ensign.

(c) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by an Official Patrol.

(ii) Proceed as directed by any official patrol.

(d) *Enforcement Period.* This regulation will be enforced from 9 a.m. to 7 p.m. on August 28, 2010. In the case of inclement weather, this regulation will be enforced from 9 a.m. to 7 p.m. on August 29, 2010.

Dated: June 21, 2010.

**M.S. Ogle,**

*Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.*

[FR Doc. 2010-16587 Filed 7-7-10; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2010-0472]

RIN 1625-AA00

#### Safety Zone; Illinois River, Mile 119.7 to 120.3

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is establishing a temporary safety zone for